Office-Supreme Court, U.S.
FILED
FEB 6 1981
ALEXANDER L. STEVAS,
CLERK

80-1327

Case Number 80-1327

IN THE

Supreme Court of the United States

OCTOBER TERM, 1981

ERNEST A. HUNTER, Petitioner ~~Appellant~~,

v.

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE, ET AL ~~Appellee~~ Respondent

PETITION FOR WRIT OF CERTIORARI TO THE NEW YORK STATE COURT OF APPEALS

PETITION

NEW YORK CITY OFFICE
OF THE ATTORNEY GENERAL
2 World Trade Center
New York, New York 10047

ERNEST A. HUNTER
Petitioner-Counsel, Pro Se
2816 - 8th Avenue
New York, New York 10039
Telephone No. 368-1732

PETITION

To the Honorable Chief Justice and Associate Justices of the Supreme Court of the United States:

ERNEST A. HUNTER, counsel pro se, the petitioner herein, prays that a writ of certiorari issue to review as follows:

QUESTIONS FOR REVIEW

Whether the petitioner has standing to assert a claim in this Court which emanates from a nonfinal judgment of a state court because his guaranties as protected by the Constitution of the United States are being abridged?

Whether the petitioner, having been denied the right to return to work from sick leave, due to loss of weight, since his initial request to return on or about December, 1978, has been denied due process under the laws of New York and the United States?[9]

Whether the petitioner, after alleging that the examination taken by him on or about December, 1979 for Probation Program Consultant was graded in such a manner as to be discriminatory against him, is entitled to relief if the aforementioned assertion is true pursuant to the equal protection of the laws provision of the Constitutions of New York State and the United States?

PROPER PARTIES

Petitioner requested disclosure pursuant to Article 31 of the civil practice law and rules to discover the proper parties respondent.

PETITION

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PETITION

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Unofficial Reports

The matter of Hunter *v.* New York State Department of Civil Service has only been reported unofficially in the New York Law Journal dated July 23, 1980, page 6, second column.

Jurisdictional Statement

The petitioner's petition was dismissed without prejudice effective July 18, 1980 by Judge Kassal, as to all provision therein except to provide for a hearing within 90 days from the date of the decision.[1] This decision was affirmed by Associate Justice Sullivan of the Appellate Division on September 30, 1980.[2] Chief Judge Cook of the Court of Appeals dismissed the request for permission to appeal on November 11, 1980.[3]

The United States Code: Section 1257 subsection (3) By writ of certiorari, where the validity of a treaty or statute of the United States is drawn in question or where the validity of a state statute is drawn in question on the ground of its being repugnant to the Constitution, treaties or laws of the United States, or where any title, right, privilege or immunity is specially set up or claimed under the constitution, treaties or statues of, or commission held or authority exercised under, the United States.

Relative Applicable Laws

Petitioner asserts the following constitutional provisions, statutes, ordinances, and regulations which this case involves:

Federal Constitution: 14th Amendment, Section 1: All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State, wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or

property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

State Constitution: Article 5, Section 6 [Civil Service] Appointments and promotions in the civil service of the state and all of the civil divisions thereof, including cities and villages, shall be made according to merit and fitness to be ascertained, as far as practicable, by examination which, as far as practicable, shall be competitive;

Article 1, Section 11 [Equal protection of law; discrimination in civil rights prohibited.] No person shall be denied the equal protection of the laws of this state or any subdivision thereof. No person shall, because of race, color, creed or religion, be subjected to any discrimination in his civil rights by any other person or by any firm, corporation, or institution, or by the state or any agency or subdivision of the state.

Article 6, Section 3, Subsection (5) [Jurisdiction of Court of Appeals] From an order of the appellate division of the supreme court in any department, in a proceeding instituted by or against one or more public officers or a board, commission or other body of public officer or a court of tribunal, other than an order which finally determines such proceeding, where the court of appeals shall allow the same upon the ground that, in its opinion, a question of law is involved which ought to be reviewed by it, and without regard to the availability of appeal by stipuation for final order absolute.

State Statutes: Civil Practice Law and Rules, Article 78 Section 7801, Subsection 1 [Nature of Proceeding] Relief previously obtained by writs of certiorari to review, mandamus or prohibition shall be obtained in a proceeding under this article. Wherever in any statute reference is made to a writ or order of certiorari, mandamus or prohibition, such reference shall, so far as applicable, be deemed to refer to the proceeding authorized by this article. Except where otherwise provided by law, a proceeding under this article shall not be used to challenge a determination: 1. which is not final to a court or to some other body or

officer or where the body or officer making the determination is expressly authorized by statute to rehear the matter upon the petitioner's application unless the determination to be reviewed was made upon a rehearing, or a rehearing has been denied, or the time within which the petitioner can procure a hearing has elapsed;

Article 56, Section 5602, Subdivision (a)2. [Permission of appellate division or court of appeals.] (a) Permission of appellate division or court of appeals. An appeal may be taken to the court of appeals by permission of the appellate division granted before application to the court of appeals, or by permission of the court of appeals upon refusal by the appellate division or upon direct application: 2. in a proceeding instituted by or against one or more public officers or a board, commission or other body of public officers or a court or tribunal, from an order of the appellate division which does not finally determine such proceeding, except that the appellate division shall not grant permission to appeal from an order granting or affirming the granting of a new trial or hearing.

Article 31, Section 3102, Subsection (f). Action to which state is a party. In an action in which the state is properly a party, whether as plaintiff, defendant or otherwise, disclosure by the state shall be available as if the state were a private person, except that it may be obtained only by order of the court in which the action is pending and except further that it may not include interrogatories or requests for admissions.

State Statutes: Civil Service Law: Article 5, Section 77 [Compensation of officers and employees reinstated by court order.] Any officer or employee who is removed from a position in the service of the State or of any civil division thereof in violation of the provisions of this chapter, and who thereafter is restored to such position by order of the supreme court, shall be entitled to receive and shall receive from the state or such civil division, as the case may be, the salary or compensation which he would have been entitled

by law to have received in such position but for such unlawful removal, from the date of such unlawful removal to the date of such restoration, less the amount of compensation which he may have earned in any other employment or occupation and any unemployment insurance benefits he may have received during such period. Such officer or employee shall be entitled to a court order to enforce the payment of such salary or compensation. Such salary or compensation shall be subject to the provisions of sections four hundred seventy-four and four hundred seventy-five of the judiciary law for services rendered, but otherwise shall be paid only directly to such officer or employee or his legal representatives.

Article 5, Section 81, Subsection (7). Notwithstanding any other provisions of this chapter, the civil service department or appropriate municipal commission may disqualify for reinstatement and remove from a preferred list the name of any eligible who is physically or mentally disabled for the performance of the duties of the position for which such list is established, or who has been guilty of such misconduct as would warrant his dismissal from the public service, except that a partially physically handicapped person, who is suspended pursuant to section eighty of this chapter because of lack of work, but who, within six months of the date of his suspension, is certified for reinstatement to any job item having the same physical requirements as the job item from which the person was suspended shall not be disqualified because of his physical handicap unless a medical examination discloses that because his handicap has become greater he would not be able to satisfactorily perform in such job item. No person shall be disqualified pursuant to this subdivision unless he is first given a written statement of the reasons thereafter and an opportunity for a hearing at which such reasons shall be established by appropriate evidence, and at which such person may be represented by counsel and present evidence. The civil service department or municipal commission may designate a person to hold such hearing and report thereon.

Part 55, Section 55.3 [Pre-list review] The director of examinations or his designee may, by appropriate notice, invite candidate review of and the submission of objections with respect to a tentative rating key for short-answer written tests constituting all or part of an examination for the purpose of enabling a committee on appeals to recommend a final rating key which, upon approval by the commission, shall be applicable to all candidates. Such review may, but need not be limited to locations in Albany, Buffalo and New York City. The eligible list may be established pending consideration of the rating key by the commission, in which event objections to the tentative rating key filed by candidates shall constitute appeals to the commission. Every candidate shall be granted an opportunity to inspect his scored answer papers, or a photographic copy thereof, and the rating key and scoring tables in order to detect any errors in the application of such rating key to his answer sheet.

Statement of The Case

The petitioner is a citizen of the United States and a resident of the State of New York, residing at 2816 8th Avenue, New York City 10039. He completed educational requirements for Bachelor of Science and Bachelor of Laws degrees at Florida Agricultural and Mechanical University. He has been a member of the New York State Employees' Retirement since March 30, 1964, having transferred his membership from the New York City Retirement System. The petitioner served in the Army of the United States from January, 1952 until October, 1953. The petitioner was employed by the State of New York as a Narcotic Parole Officer March 30, 1970. He was promoted to Senior Narcotic Parole Officer effective October 12, 1972. Due to deemphasis in drug programing, the petitioner was reduced from Senior Narcotic Parole Officer, effective October 6, 1976 retroactive to August, 1976, to Narcotic Parole Officer; he was reduced from Narcotic Parole Officer to Drug Abuse Treatment Specialist I effective January, 1977.

The petitioner on or about July 20, 1978 relieved himself from work at Manhattan Community Based Center due to loss of weight. He requested to be reinstated on or about December, 1978, after his weight had stabilized. Petitioner was directed to take examinations during the month of January, 1979 before clearance could be had to actuate the procedure for his return. The petitioner complied with those requests and subsequent requests to keep medical and other appointments. Please note that at all times, the petitioner has averred his willingness to keep all appointments made pursuant to current policy. After an inordinate delay, petitioner was advised officially by letter dated March 19, 1979 signed by Mr. John Debes, Personnel Administrator, that he had failed the medical examination given by Dr. Fleisher, Associate Physician of the Employee Health Service on January 9, 1979 and the psychiatric examination given on January 16, 1979 by Dr. Singer. The petitioner has not to this date been given specific reasons for the determination reached to restrain him from his return to work. Dr. Francisco F. Merino examined the petitioner February 14, 1980, his diagnosis was that petitioner had "Long Standing Schizophrenic Paranoid Reaction with elements of deterioration".

Except for the general conclusions reached by Dr. Merino from the examination given February 14, 1980 the petitioner has yet to be given specific factors involving the effectiveness or lack of it in this instance of his work product which gives rise to the basis for the firing. Please note that there must be a causative correlation between the firing and the work situation. It is deemed essential that it be established that the petitioner could no longer do his job in a substantial and functional manner before any action could be taken. The petitioner avers that he did his job better than in a substantial manner. There can be no doubt the time for a hearing has long since passed to give any lawful application to the provisions of Section 81.7 of the Civil Service Law. The petitioner took an examination on or about Dececber, 1979 for Probation Program Consultant.

An appeal was taken after being advised that he had failed. The petitioner received a reply dated June 24, 1980 indicating that his final score was 66. He alleged in his amended petition, filed on June 30, 1980, that the method used to grade the test did not meet the constitutional requirements of equal protection of the laws. That one review group of the candidates had the benefit of the examination questions and answers and their answer sheet with which they had an opportunity to rebut the State's established answers before the grading of the examination, where as the petitioner was afforded only his answer sheet to compare with the established civil service answer sheet after the grading of the examination.

Judgment Below

The allegations of unconstitutional acts were raised at every stage in the proceedings: the original petition filed May 22, 1980; the amended petition filed June 30, 1980; the reply filed June 30, 1980 to the answer of the Civil Service Commission's answer by way of reference to the original petition; petitioner's memorandum filed June 30, 1980; on appeal to the Appellate Division as assignments of error; on appeal to the Court of Appeals as assignments of error. The petitioner's original and amended petition was dismissed without prejudice effective July 18, 1980, except that a hearing was ordered within 90 days from the date of Judge Kassal's memorandum decision, granting same pursuant to Section 81.7 of the Civil Service Law on at least 15 days written notice. It is parenthetically stated that to this date no such notice of a scheduled hearing has been received by the petitioner, however, he has received a reply from Mr. Robert Bazyk[15] dated August 6, 1980 which gave him the opportunity to request a specific date for a hearing to be held at his request and a reply from Mr. Paul J. Vella[16] dated October 7, 1980 which advised him if he did not request a hearing that it would be assumed that he waived his rights to same. That his name would be permanently removed from the preferred list for the position of

Narcotile Parole Officer effective October 24, 1980. The petitioner since on or about December, 1978 has remained ready, willing and able to return to work. Those medical sources known to the petitioner, Dr. Furman Jones, Life Extension Institute and Presbyterian Hospital, have not found him to be disabled.

Brief in Support of Petition

This proceeding was commenced under Articles 78 and 31 of the Civil Practice Law and Rules to attempt to arrive at a just solution of the problem. Petitioner sought a ruling on the pleading by the Court of first instance because the circumstances of the case were shrouded in Equity. He is well aware of the importance of the governmental interests and has given them every opportunity to preserve those interests. However, in this instance no reasonable person can assert candidly that the balance stays with the State infinitely. The State cannot continue to deny the constitutional claims of the petitioner based upon the illusory findings that he failed a psychiatric evaluation. Since December, 1978 the Civil Service Commission has been unable or unwilling to provide a solution to the problem. Unless the State can provide evidence and confront the petitioner with this evidence in an adversary proceeding where he might rebut same, they have no standing to deny him his constitutional right to return to work even if he did fail the psychiatric evaluation. The emotional condition referred to must be such as to seriously affect the petitioner's ability to perform his job responsibilities. Assuming that the provision of Section 81.7 of the Civil Service Law was applicable in this instance, the Civil Service Commision would still be liable to the petitioner for they have not provided the necessary hearing to lawfully effectuate that removal. It is noted that until the closing of Manhattan Community Center on or about May, 1979, the petitioner was employed but on sick leave due to loss of weight. It was from this status that petitioner took examinations, both medical and psychiatric, to be restored from sick leave to active employment[9] and

therefore the provisions by which he was originally denied the right to return to work could not be the provisions of the Section 81.7 as noted in Judge Kassal's decision. However, it does not matter exactly what provision was used in this instance as no justifiable reasons can be advanced for not resolving the matter since December, 1978. It is noted that there are no precedents in Equity proceedings, however, the petitioner requests this Court to take Judicial Notice of the fact that any appellate court should exercise its judicial power to correct gross miscarriages of justice.

Therefore it is requested:

1. That petitioner be restored to the State's payroll.

2. That petitioner be assigned the highest grade from which he was unlawfully dismissed.

3. That petitioner be given benefit of all attendant rights as they relate to his restoration to payroll.

4. That the Court lift the veil to determine culpability of the Civil Service Commission in their individual capacities and as a unit.

5. That the circumstances by which the examination was graded be reviewed.

Respectfully submitted,

ERNEST A. HUNTER
Petitioner-Counsel, Pro Se
New York, New York 10039
2816 - 8th Avenue
Telephone No. 368-1732

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ERNEST A. HUNTER,

Petitioner,

v.

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE, *et al*

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE
NEW YORK STATE COURT OF APPEALS

APPENDIX — EXHIBIT

NEW YORK CITY OFFICE
OF THE ATTORNEY GENERAL
2 World Trade Center
New York, New York 10047

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Petitioner-Counsel, Pro Se
2816 - 8th Avenue
New York, New York 10039
Telephone No. 368-1732

APPENDIX

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[1] Memorandum Decision, Judge Kassal.

[2] Order of Appellate Division, Associate Justice Joseph P. Sullivan.

[3] Order of Court of Appeals, Chief Judge Lawrence H. Cooke, signed by Clerk of Court Joseph W. Bellacosa.

[4] Notice of Determination, dated March 12, 1980.

[5] Petitioner's DD214 Army Separation.

[6] Telegram of Appointment to position of Narcotic Parole Officer.

[7] Letter of Promotion to Senior Narcotic Parole Officer dated October 6, 1972.

[8] Employee Retirement System verification.

[9] Letter from Personnel Administrator dated March 19, 1979 and attached letter he received from Employee Health Service.

[10] Letter of Medical Appointment dated January 9, 1979.

[11] Letter from Life Extension Institute dated August 9, 1978.

[12] Letter from Life Extension Institute dated September 10, 1979.

[13] Letter from Life Extension Institute dated August 13, 1980.

[14] Copy of Psychiatric Evaluation by Dr. Merino dated February 14, 1980 received June 30, 1980.

[15] Letter from Staffing Services Representative dated August 6, 1980.

[16] Letter from Senior Attorney dated October 7, 1980.

APPENDIX 1
EXHIBIT

SUPREME COURT : NEW YORK COUNTY
SPECIAL TERM : PART I

In the Matter of the Application of
ERNEST A. HUNTER,

Petitioner,

-against-

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE, et al.,

Respondents.

MEMORANDUM DECISION

Index No. 10216/80
No. 248 - 6/30/80

UTY.GLZ. TO
CRIM JUSTICE RECEIVED
SCCN DISP'N
JUL 21 19
MINUTE BOOK
SPECIAL TERM PART I
N.Y.L.J. JOURNAL

MEMO

KASSAL, J.:

The petition is granted to the following extent only:

The affidavit of respondent's attorney admits (and the attached Notice confirms) that the petitioner may have been erroneously advised to appeal the determination under Section 50.4 of the Civil Service Law rather than to request a hearing pursuant to Section 81.7 of the Civil Service Law. Although a subsequent letter to the petitioner did inform him of the correct remedy, he, nevertheless, elected to commence this proceeding in its stead.

The petitioner's March 19, 1980 letter should be treated as a timely election to pursue his right of review. That right of review, by way of a hearing under Section 81.7 of the Civil Service Law renders the determination challenged herein not a final determination. Accordingly, pursuant to CPLR 7801(1), the petition must be dismissed as premature.

However, in the interests of justice and since the petitioner is appearing pro se and was previously misadvised by respondent, I am directing that the respondent settle a judgment dismissing the petition without prejudice and further directing that the respondent schedule a hearing within

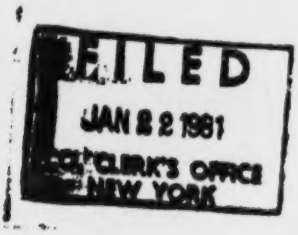
APPENDIX 1
EXHIBIT

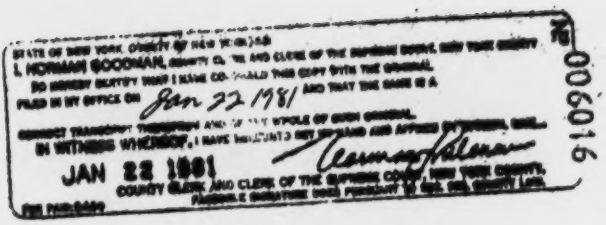
90 days from this date, pursuant to Section 81.7 of the Civil Service Law on at least 15 days written notice to the petitioner.

Settle judgment.

Dated: July 18, 1980.

J. S. C.





APPENDIX 2
EXHIBIT

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: FIRST JUDICIAL DEPARTMENT

- -x

In the Matter of the Application of Ernest A. Hunter,

Petitioner,

-against-

New York State Department of Civil Service, et al.,

Respondent.

M-3144

- -x

AD SEP 30 1980

The above-named petitioner having moved for leave to appeal from the order of the Supreme Court, New York County, entered on or about July 18, 1980,

Now, upon reading and filing the notice of motion, with proof of due service thereof, and the papers filed in support of said motion, and the papers filed in opposition or in relation thereto; and due deliberation having been had thereon,

It is ordered that said motion be and the same hereby is denied.

Joseph P. Sullivan
Associate Justice

Sept. 24 1980

Dated: September 30, 1980

APPENDIX 3
EXHIBIT

State of New York,
Court of Appeals

At a session of the Court, held at Court of Appeals Hall in the City of Albany on the eleventh *day of* November *A. D. 19* 80

Present, HON. LAWRENCE H. COOKE, *Chief Judge, presiding.*

1 Mo. No. 1128
In the Matter of the Application
of Ernest A. Hunter,
Appellant,
vs.
New York State Department of
Civil Service, et al.,
Respondents.

A motion for leave to appeal to the Court of Appeals in the above cause having been heretofore made upon the part of the appellant herein and papers having been submitted thereon and due deliberation thereupon had, it is

ORDERED, that the said motion be and the same hereby is dismissed upon the ground that the order sought to be appealed from does not finally determine the proceeding and it is not "an order of the appellate division" within the meaning of CPLR 5602 (subd. [a], par 2) (see Matter of Codd v. McGuire, 46 NY 2d 1036).

Joseph W. Bellacosa
Joseph W. Bellacosa
Clerk of the Court

APPENDIX 4
EXHIBIT

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
EMPLOYEE HEALTH SERVICE
STATE OFFICE BUILDING CAMPUS
ALBANY, NEW YORK 12239

NOTICE OF DETERMINATION

E. A. Hunter
2816 Eight Ave., Apt. 5A
New York, N. Y. 10039

Date: March 12, 1980

Exam. No.	Title
	Parole Officer (preferred list)

A. Your name will not appear on or will be removed from the eligible list for the examination listed above for the following reason(s):

- ☐ Failed Physical Agility Test
- ☐ Failure to cooperate in the review of your physical or medical qualifications
- ☐ Failure to appear for medical examination as directed
- ☒ Other On the basis of psychiatric evaluation

B. ☐ You have the following disqualifying medical condition: _____

☐ You have the following remedial disqualifying medical condition: _____

(Your name will be restored to the above eligible list if you remedy this condition and so notify the Employee Health Service.)

C. Right of Appeal

Pursuant to Section 50.4 of the Civil Service Law, you may appeal this determination by submitting a written statement of your objection to this action accompanied by available documentary evidence upon which you rely to show that this determination is incorrect. This material must be received by the New York State Civil Service Commission, Building 1, State Office Building Campus, Albany, New York 12239, no later than 30 days from the date indicated above.

PS-731 (6/78)

APPENDIX 5
EXHIBIT 1

REF 5-17

REPORT OF SEPARATION FROM THE ARMED FORCES OF THE UNITED STATES

CHARACTER OF SEPARATION: HONORABLE

AUTHORITY: AR615-360

SEPARATION DATA

1. LAST NAME — FIRST NAME — MIDDLE NAME: HUNTER ERNEST A
2. SERVICE NUMBER: US 53 105 576
3. GRADE — DATE — BASIS AND DATE OF APPOINTMENT: PFC(T) 22 May 53
4. COMPONENT AND BRANCH OF CLASS: AUS AGC
5. QUALIFICATIONS
   - SPECIALTY NUMBER OR SYMBOL: NA
   - RELATED CIVILIAN OCCUPATION AND D.O.T. NUMBER: Not Applicable
6. EFFECTIVE DATE OF SEPARATION: 12 Oct 53
7. TYPE OF SEPARATION: Rel fr act mil svc
8. REASON AND AUTHORITY FOR SEPARATION: Trfd to USAR SR615-363-5 & Par 3la Sec VI SR615-360-15 PCSA(AGO)(ERT) (SER #38)
9. PLACE OF SEPARATION: Transfer Center Ft Jackson S C
10. DATE OF BIRTH: 7 Nov 30
11. PLACE OF BIRTH (City and State): Leon Co Fla
12. DESCRIPTION: SEX: Male; RACE: Negroid; COLOR HAIR: Black; COLOR EYES: Brown; HEIGHT: 72"; WEIGHT: 135

SELECTIVE SERVICE DATA

13. REGISTERED: YES X; NO; SELECTIVE SERVICE NUMBER: 8-11-30-379
14. SELECTIVE SERVICE LOCAL BOARD NUMBER (City, County, State): #11 Tallahassee(Leon) Fla
15. INDUCTED: DAY 9; MONTH Jan; YEAR 52
16. ENLISTED OR TRANSFERRED TO A RESERVE COMPONENT: YES X; NO; COMPONENT AND BRANCH OR CLASS: Trfd to USAR AGC
    COGNIZANT DISTRICT OR AREA COMMAND: Fla Mil Dist

SERVICE DATA

17. MEANS OF ENTRY OTHER THAN BY INDUCTION: ENLISTED; REENLISTED; COMMISSIONED; CALLED FROM INACTIVE DUTY
18. GRADE — DATE OF RANK AT TIME OF ENTRY INTO ACTIVE SERVICE: Private
19. DATE AND PLACE OF ENTRY INTO ACTIVE SERVICE: DAY 9; MONTH Jan; YEAR 52; PLACE (City and State): Jacksonville Fla
20. HOME ADDRESS AT TIME OF ENTRY INTO ACTIVE SERVICE (St., R.F.D., City, County and State): 816 Dent St Tallahassee (Leon) Fla

STATEMENT OF SERVICE FOR PAY PURPOSES

	A. YEARS	B. MONTHS	C. DAYS
21. NET (NA) SERVICE COMPLETED FOR PAY PURPOSES EXCLUDING THIS PERIOD	NA	NA	NA
22. NET SERVICE COMPLETED FOR PAY PURPOSES THIS [illegible]	1	9	4
23. OTHER SERVICE (Act of 16 June 1942 as amended) COMPLETED FOR PAY PURPOSES	0	0	0
24. TOTAL NET SERVICE COMPLETED FOR PAY PURPOSES	1	9	4

25. TERMINAL LEAVE PAY (ENLISTED, IF ANY): DAY NA; MONTH NA; YEAR NA; AMOUNT None
26. FOREIGN AND/OR SEA SERVICE: YEARS 0; MONTHS 9; DAYS 17
27. DECORATIONS, MEDALS, BADGES, COMMENDATIONS, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED: None
28. MOST SIGNIFICANT DUTY ASSIGNMENT: Stn Compl Op Kobe 803lst AU APO 317
29. WOUNDS RECEIVED AS A RESULT OF ACTION WITH ENEMY FORCES (Place and date, if known): None

30. SERVICE SCHOOLS OR COLLEGES, CORRESPONDENCE COURSES AND/OR POST-GRAD. COURSES SUCCESSFULLY COMPLETED	DATES (Course-Yrs)	MAJOR COURSES	31. SERVICE TRAINING COURSES SUCCESSFULLY COMPLETED
None	Not Applicable	Not Applicable	Hir 10th Inf Div Basic Adm

GOVERNMENT INSURANCE INFORMATION: (a) Permanent plan premium must continue to be paid when due, or within 31 days thereafter, or insurance will lapse. (b) Term coverage not under waiver ceases at (b) above. (c) Term insurance under waiver — person insured must be reinsured within 120 days after separation. Forward premiums on NSLI to Veterans Administration District Office having jurisdiction over the area shown in Item 20. Forward premiums on USGLI to Veterans Administration, Washington 25, D. C. (See VA Pamphlet 9-5.) When paying premiums give full name, address, Service Number, Policy Numbering, Branch of Service, date of separation. Contact nearest VA office for information concerning Government Life Insurance.

32A. KIND & AMT. OF INSURANCE & MTHLY. PREMIUM: None (Index)
32B. ACTIVE SERVICE FROM TO IS APRIL: YES X; NO
33. MONTH ALLOTMENT DISCONTINUED: Not Applicable
34. MONTH NEXT PREMIUM DUE: Feb 54
35. TOTAL PAYMENT UPON SEPARATION: Not Applicable
36. TRAVEL OR BILLEAGE ALLOWANCE INCLUDED IN FINAL PAYMENT: Not Applicable
37. DISBURSING OFFICER'S NAME AND SYMBOL NUMBER: Not Applicable

AUTHENTICATION

38. REMARKS (Continue on reverse)
Blood group "O"
8 Days accrued unused leave
No days lost under section 6(a) appendix 2b NCM 51
Item #8 Rel fr act mil svc & trfd to USAR to comp 8 yrs svc under UMT & SVC Act

39. SIGNATURE OF OFFICER AUTHORIZED TO SIGN: Tillie Dorough
NAME, GRADE AND TITLE (Typed): T J MC DOROUGH WOJG USA ASST ADJUTANT

PERSONAL DATA

40. V. A. BENEFITS PREVIOUSLY APPLIED FOR (Quantity type): None
41. DATES OF LAST CIVILIAN EMPLOYMENT: FROM NA; TO NA
42. MAIN CIVILIAN OCCUPATION: None 9-99.999
43. NAME AND ADDRESS OF LAST CIVILIAN EMPLOYER: Not Applicable
44. UNITED STATES CITIZEN: YES X; NO
45. MARITAL STATUS: Married
46. SCHOOLING — GRADE, HIGH SCHOOL, COL. LASS: 8; 4; 3
    DEGREE(S): None
    MAJOR COURSE OR FIELD: History
47. PERMANENT ADDRESS FOR MAILING PURPOSES AFTER SEPARATION (St., R.F.D., City, County and State): See #20
48. SIGNATURE OF PERSON BEING SEPARATED: Ernest A Hunter

DD FORM 1 JUL 50 214 EDITION OF 1 AUG 50 IS OBSOLETE.

HEADQUARTERS COPY (ARMY & AIR FORCE: ATTACH TO SERVICE RECORD. NAVY: TO BUREAU OF NAVAL PERSONNEL, WASHINGTON, D. C. MARINE CORPS: INT OR RETN: ATTN TO SRD OR OQR TO INACTIVE DU FWD TO CMC (CODE POR) TO HQ, COAST GUARD, WASHINGTON, D. C.) COAST GUARD:

2

western union **Telegram**

APPENDIX 6
EXHIBIT

[illegible] 20 PM 4 10

CGA067 (40)BB344
B FHB174 FAPDF TDFH NEW YORK NY 20 1136A EST
ERNEST AHUNTER, DLY 75
2816 8AE APT5A (BON6) NYKX
THIS CONFIRMS YOUR PERMANENT APPOINTMENT TO THE POS TIONOF
NARCOTIC PAROLE OFFICER WITH THE NARCOTIC ADDICTION CONTROL
COMMISSION PLEASE REORT TO MOUNT MRRIS COMMUNITY BASE CENTER
10 MOUNT MORRIS PARK WESTNEW YORK CITY AT 830AM ON MARCH30
1970 APPOINTMENT LETTER WIL FOLLOW
VIRGIL H HODGES
KAA B FHB175FA PDF
TDFH NEW YORK NY 20 1149A EST
R GUTIERREZ
1357 NORTH EAST 39/ '5 09.09,9 ?3-:#)9
CALL ME IMMEDIATELY

western union **Telegram**

DICK STETSKY
(117).

[illegible] 20 PM 4 10

APPENDIX 7
EXHIBIT

STATE OF NEW YORK

NARCOTIC ADDICTION CONTROL COMMISSION

EXECUTIVE PARK SOUTH
ALBANY, NEW YORK 12203

HOWARD A. JONES
CHAIRMAN

October 6, 1972

Mr. Ernest A. Hunter
2816 Eighth Avenue
Apartment 5-A
New York, New York 10039

Dear Mr. Hunter:

This will confirm your permanent appointment to the position of Senior Narcotic Parole Officer (Grade 22) with the Narcotic Addiction Control Commission at the Mt. Morris Community Rehabilitation Center, 10 Mt. Morris Park West, New York, New York, effective Thursday, October 12, 1972.

In accordance with Civil Service rules and Commission policy, in appointments of this type, employees are not required to serve a probationary term.

Best wishes for continued success in your employment with the Commission.

Very truly yours,

Stephen P. Daly
Director of Personnel

SPD:kal

APPENDIX 8
EXHIBIT

NEW YORK STATE

EMPLOYEES' RETIREMENT SYSTEM
POLICEMEN'S AND FIREMEN'S RETIREMENT SYSTEM
Gov. Smith State Office Building, Albany, New York 12244

EDWARD V. REGAN
State Comptroller

August 14, 1980

IN REPLY REFER TO
NEW REG. NO. 1113065-5

FORMER REG. NO.

Narcotic Addiction Control Comm.
Mt. Morris Community Based Center
2816 8th Avenue #5A
New York, New York 10039

Ernest Hunter has transferred membership from the NYC Employees Retirement System to the New York State Employee's Retirement System.

The following changes have been made relative to this transfer:

Registration no.: 1113065-5 ☑ Remains Same ☐ New

☑ Adjusted date of membership 3-30-64 Adjusted Rate .0958 Tier I

☐ No change in date of membership ☐ Transfer of credits only

☐ This member's status has been changed from "Tier Three" to "Tier ". Contributions of .0300 should be discontinued.

☐ Tier 3 contributions will be refunded to the member automatically. No application for these funds need be made.

☐ A change of death benefit coverage to that provided by Article II is effective. The member should complete and submit a choice of death and designation of beneficiary. The appropriate forms have been sent to the member.

☐ A change of death benefit coverage to that provided for "Tier One" members is effective. No choice is involved, but the member should complete and submit his designation of beneficiary. The appropriate form has been sent to the member.

☐ Since you have provided a non-contributory plan, this member will not make any normal contributions.

☐ The rate shown above should be applied to future earnings. However, if this employee is covered by an increased-take-home-pay plan, the actual contributions should be adjusted accordingly (i.e. the rate reduced by 5%, 8%, etc.). Please begin dedeuctions on your next payroll. These deductions should be shown in the "normal" column on your reports.

Please use this member's new registration number on all future reports and correspondence with this System.

Very truly yours,

Doris Townsend
Supervisor, Registration Section

RS 5392
db

cc: member

APPENDIX 9
EXHIBIT

STATE OF NEW YORK
OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE
EXECUTIVE PARK SOUTH
ALBANY, NEW YORK 12203

March 19, 1979

Mr. Ernest Hunter
2816 8th Avenue, Apt. 5A
New York, N.Y. 10039

Dear Mr. Hunter:

This letter is in response to your recent request for information pertaining to your physical examination at Employee Health Services this past January. Please find attached a copy of the letter that we received from Employee Health Services regarding your examination.

Enclosed you will find some information concerning disability benefits. I hope that this information will be of assistance to you.

If I can be of further assistance, please feel free to call me at (518) 457-3059.

Sincerely,

John Debes
Personnel Administrator

Encl.
JD/lcp

APPENDIX 9
EXHIBIT

New York State Department of Civil Service

2 WORLD TRADE CENTER • NEW YORK, NEW YORK 10047

COMMISSION
Victor S. Bahou
PRESIDENT
Josephine L. Gambino
James T. McFarland

RECEIVED
JAN 30 1979
CASA
Personnel Office-Albany

John J. Mooney
ADMINISTRATIVE DIRECTOR

January 22, 1979

PF

Mr. John M. Debes
Personnel Administrator
Office of Alcoholism & Substance Abuse
Executive Park South
Albany, NY 12203

RE: HUNTER, ERNEST

Dear Mr. Debes:

The above-named employee was examined by me on January 9, 1979 at the New York City facility of the Employee Health Service and by my consultant on January 16, 1979.

Based upon both examinations, it is my considered medical opinion that Mr. Ernest Hunter has a medical condition that precludes him from performing the full duties of his position as Substance Abust Treatment Specialist I and, therefore, should not be permitted to return to work at this time.

He needs several months of medical treatment, and if after four or five months he presents letters from his doctor that he has recovered sufficiently to be able to return to work and perform the full duties of his position in a sustained manner and acceptable fashion, then certainly a reevaluation of his status would be in order, and the Employee Health Service would be most happy to perform this examination and then render a decision based upon the findings at that time.

Yours truly,

Rubin R. Fleisher, M.D.
Associate Physician
Employee Health Service

RRF:mef
cc: Dr. V. Smith

APPENDIX 10
EXHIBIT

New York State Department of Civil Service

2 WORLD TRADE CENTER • NEW YORK, NEW YORK 10047

COMMISSION
Victor S. Bahou
PRESIDENT
Josephine L. Gambino
James T. McFarland

John J. Mooney
ADMINISTRATIVE DIRECTOR

January 9, 1979

Mr. Ernest A. Hunter
2816 8th Avenue
New York, NY 10039

Dear Mr. Hunter:

An appointment has been scheduled for you on Tuesday, January 16, 1979 at 1:00 p.m. with Dr. Gloria A. Singer for a psychiatric examination at the Employee Health Service, Two World Trade Center, 55th Floor, Room 55-51, New York, NY 10047.

Telephone numbers: 488-7548, 7549, or 2608.

Sincerely yours,

Rubin R. Fleisher, M.D.
Associate Physician
Employee Health Service

RRF:mef

APPENDIX 11
EXHIBIT

LIFE EXTENSION INSTITUTE
STEVENS TOWER / 1185 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10036 / TELEPHONE: (212) 575-8300

August 9, 1978

Mr. Ernest A. Hunter
2816 8th Avenue #5A
New York, N.Y. 10039

Dear Mr. Hunter:

It is a pleasure to advise you that the results of your recent physical examination indicate that you are in good general health.

You are significantly underweight for your height and should go on a high calorie diet in order to gain about 20 pounds. Discontinuance of the use of tobacco for your better general health now and in the future would also help you to regain weight which you have lost in recent months. The examination did not disclose any findings for your loss of weight although a T-4 blood test of thyroid function was not a part of this examination and you should discuss with your physician whether this test is indicated in your case.

The minor changes noted in the prostate are quite common. They need not concern you. We do not feel that any treatment is indicated.

The hemorrhoids noted need not concern you unless bleeding or discomfort occurs. To control anal itching or pain, the anal area must be kept as dry, clean and free from irritation as possible. Wash the area with warm water and dry with cotton pads or soft tissue after each bowel movement.

The current chest x-ray revealed some changes that indicate you should eliminate the use of tobacco.

If you have any questions about your examination, please call for a consultation appointment.

Sincerely,

Harry Hershey, M.D.

bm

APPENDIX 12
EXHIBIT

life extension
HEALTH CARE SERVICES **institute**

STEVENS TOWER·1185 AVENUE OF THE AMERICAS NEW YORK N.Y 10036·(212)575-8300

OUR 65TH YEAR
September 10, 1979

Mr. Ernest Hunter
2816 8th Ave.
New York, N.Y. 10039

Dear Mr. Hunter:

We have completed our review and evaluation of both the history and findings from your recent health examination, and are enclosing the report in two major parts - (1) the medical findings, and (2) the auxiliary studies.

In the studies which we have done, no significant abnormalities were found, and our overall assessment of your present health is excellent. However, please keep in mind that not every possible diagnostic study was done, and new symptoms or apparent changes in your health should prompt you to seek medical attention.

We would like to suggest that this report be given to your personal physician as part of his permanent record of your health care. We have also retained a complete copy in our permanent files and would be happy to discuss any part of it with you if you would like to make a consultation appointment.

We look forward to serving you again in the future.

Sincerely,
Harry Hershey
Harry Hershey, M.D.
Associate Medical Director

HH:ej

APPENDIX 13
EXHIBIT

life extension
institute

August 13, 1980

Mr. Ernest Hunter
2816 8th Ave.
New York, NY 10039

Dear Mr. Hunter:

We have completed our review and evaluation of both the history and findings from your recent health examination, and are enclosing the report in two major parts - (1) the medical findings, and (2) the auxiliary studies.

In the studies which we have done, no significant abnormalities were found, and our overall assessment of your present health is excellent. However, please keep in mind that not every possible diagnostic study was done, and new symptoms or apparent changes in your health should prompt you to seek medical attention.

We would like to suggest that this report be given to your personal physician as part of his permanent record of your health care. We have also retained a complete copy in our permanent files and would be happy to discuss any part of it with you if you would like to make a consultation appointment.

We look forward to serving you again in the future.

Sincerely,

John Rizzolo, M.D.

JR: mw

John Rizzolo, M.D.
Senior Reviewing Physician

APPENDIX 14
EXHIBIT

F. F MERINO, M. D
444 EAST 57TH STREET
NEW YORK, N. Y. 10022
PL 5-2840

February 14, 1980

RE: Ernes A. Hunter

PSYCHIATRIC EVALUATION

Identification: The patient came to the interview exceedingly well dressed. His answers were deliberate, carefully avoiding any statement that could be interpreted as an indication of mental illness. Vigorously he denied the fact that he had been previously seen by other psychiatrists. Nor did he admit the psychotic symptomatology and psychiatric history so well described in Dr. Fleisher's report. At times he was vague and almost criptic in his language. But all the time he was, clearly paranoid and hostile. The following is a literal transcription of some of his utterances:

"...I am not privy why I am here. Probably to have a professional assessment of my competence as a narcotic parole officer..."
"...Do I have many friends ?: Some people have a demonstrative flair about themselves, they meet people, they usually meet people. I don't do that. I do not ingratiate myself..".

"...I went to Law school and became a lawyer, because I wanted to be of service to myself my family and to humanity and mankind in general.I plan to be a lawyer in New York some time in the future. Currently I am studying the judiciary system of New York. If I am to practice as a lawyer I have to know the judiciary..."

"...My memory is phenomenal, I have an exceptional mind, I can do anything I choose to do and I do it well, very well. I have degree from the Agricultural College of Tallahase in Florida. I have a B S in Social Sciences and in 1959 I obtained a bachelor's degree in law in the same college..."

"...sexuality ?: Recently I have not indulged in sexual activities. I just have been abstaining. Just a self-imposed discipline. Whey ? Because I did choose it that way. There are multitud of reasons for it. Not one reason but quite a few. And about being happy I am not privy to it, perhaps I could be happier..."

FAMILY AND PERSONAL LIFE: The patient was not able to give relevant data pertaining to his early development. After a short period in the Army he obtained an honorable discharge in 1953. He claims that he went to College and obtained several degrees. After completing his courses (?),becoming a lawyer and with a degree in Social Sciences he went to work in hotels as bell hop and waiter waiting in tables up until he came to New York in 1961. He had several menial jobs and in 1970 he started to work for the State of New York as a Parole Narcotic Officer.

At the age of 26 he married a woman one year his junior.They have no children. He admits the possibility of being steril but ,criptically he adds: "...I have no children with my wife, but I may have had a child with somebody else but I don't know..."

D

APPENDIX 14
EXHIBIT

F. F. MERINO, M. D.
444 EAST 57TH STREET
NEW YORK, N. Y. 10022
PL 5-2840

Re: E. Hunter

MENTAL TREND, THOUGHT CONTENT, INSIGHT AND JUDGEMENT: The patient's overcasual way of talking, his arrogant and at times hostile attitude, and his pseudo intellectualism, are indicators of his psychotic paranoid disturbance stilted with ideas of grandeur.

Insight and judgement are impaired, nevertheless he retains some degree of verbal communicative efficiency. Mr. Hunter does not have a normal or rational goal directed flow of ideas. His conclusions are clearly, not reality oriented. He has constant lapses of logic. His elaborated an unrelated answers are punctuated with paranoid hostility and antagonism.

The magical thinking, mentioned in his records and other psychotic material were vehemently denied. This denial confirms the above mentioned paranoid delusionalelements prevalent in his thinking. There is a disorder of association of ideas as manifested by his circumstatiality and inability to answer a simple direct question with a simple direct answer. His thinking is tangential and the actual goal in his conversation, was never clearly defined.

DIAGNOSTIC SYNTHESIS: This is the case of a 49 years old married male, that according to his medical records , has shown a typical schizophrenic paranoid symptomatology. At the time of this formal mental examination he presented the signs of what can be considered a gradual disintegration of his personality structure. His reality testing ability was seriously impaired.

Diagnostically the case has to be considered as Long Standing Schizophrenic Paranoid Reaction with elements of deterioration.

In view of the above circumstances he can not be considered a candidate for employability as a [redacted] Parole Officer. His schizophrenic process is not in remision and the possibility of the situation being reversible is highly questionable.

At any rate long psychotherapy plus medication and periodic re-evaluations appears indicated.

F. Merino

F.F. Merino, M.D.

FM/sp.

(1)
Dy 2/27/40,

New York State Department of Civil Service

THE STATE OFFICE BUILDING CAMPUS • ALBANY, NEW YORK 12239

APPENDIX 15
EXHIBIT

COMMISSION
Victor S. Bahou
PRESIDENT
Josephine L. Gambino
James T. McFarland

John J. Mooney
ADMINISTRATIVE DIRECTOR

August 6, 1980

Mr. Ernest A. Hunter
2816 8th Avenue #5A
New York, NY 10039

Re: Hunter vs. NYS Department
of Civil Service

Dear Mr. Hunter:

Justice Kassal, in the above entitled matter, has induced this Department to schedule a hearing for you pursuant to Section 81.9 of the Civil Service Law. This hearing must be scheduled within 90 days from the date of his decision. This means by October 16, 1980.

If you desire a specific date for the hearing, please inform me in writing at the above address so the hearing can be scheduled per your request. As you were advised earlier, you are entitled to be represented by counsel at this hearing and to present evidence in your behalf.

Very truly yours,

Robert Bazyk

Robert Bazyk
Associate Staffing Services Representative

New York State Department of Civil Service

THE STATE OFFICE BUILDING CAMPUS • ALBANY, NEW YORK 12239

APPENDIX 16
EXHIBIT

COMMISSION
Victor S. Bahou
PRESIDENT
Josephine L. Gambino
James T. McFarland

John J. Mooney
ADMINISTRATIVE DIRECTOR

October 7, 1980

Mr. Ernest A. Hunter
2816 8th Avenue #5A
New York, NY 10039

Re: Hunter v. NYS Department of Civil Service

Dear Mr. Hunter:

This is a second letter to inform you that Justice Kassal in the above entitled decision has mandated this department schedule a hearing for you pursuant to Section 81.7 of the Civil Service Law. The hearing was to be scheduled within 90 days of the decision. This Department received no response from you to our previous notification dated August 6, 1980.

If no request is received from you by October 23, 1980 we shall assume you wish to waive your rights to the hearing. Your name will subsequently be permanently removed from the preferred list for the position of Narcotic Parole Officer effective October 24, 1980.

I might suggest you forward your request to me at the New York State Department of Civil Service, State Campus, Building 1, Albany, New York 12239 and by certified mail to insure its arrival.

Sincerely,

Paul J. Vella
Senior Attorney

Respectfully submitted,

ERNEST A. HUNTER
Petitioner-Counsel, Pro Se
New York, New York 10039
2816 - 8th Avenue
Telephone No. 368-1732